

REMARKS

Claims 1-21 are pending in this application. By this Amendment, claims 1, 8, 9, 12, 15 and 16 are amended and claims 20 and 21 are added. No new matter is added by this Amendment. Support for the amendments to claims 1, 15 and 16 is found at, for example, original claims 2 and 4. Support for claims 20 and 21 is found at, for example, original claims 8 and 9.

The courtesies extended to Applicants' representative by Examiner Khoa Huynh at the interview held December 14, 2006, are appreciated. The reasons presented at the interview as warranting favorable action are incorporated into the remarks below and constitute Applicants' record of the interview.

Entry of the amendments is proper under 37 CFR §1.116 because the amendments: (a) place the application in condition for allowance for the reasons discussed herein; (b) do not raise any new issue requiring further search and/or consideration as the amendments amplify issues previously discussed throughout prosecution, and merely incorporate features of dependent claims with independent claims and further amend the claims to correct informalities; (c) satisfy a requirement of form asserted in the previous Office Action; (d) do not present any additional claims without canceling a corresponding number of finally rejected claims; and (e) place the application in better form for appeal, should an appeal be necessary. The amendments are necessary and were not earlier presented because they are made in response to arguments raised in the final rejection. Entry of the amendments is thus respectfully requested.

Furthermore, Applicants note that claim 4 has not been rejected to, nor indicated to be allowable. During the personal interview, the Examiner noted that this was an oversight and claim 4 should be rejected. As such, non-entry of this Amendment, without allowing Applicants to respond to a potential rejection to claim 4 would be improper.

II. Rejection Under 35 U.S.C. §112, first paragraph

Claims 1 and 16 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement because "the container body has an integrally formed handle shell part," as recited in claims 1 and 16, is allegedly not sufficiently described in the specification.

With reference to Fig. 1, paragraph [0031] of the specification states that the "the toothpaste container 10, which has a handle shell part 22." The original specification does not explicitly state that the toothpaste container 10 (or container body) is integrally formed with the handle shell part. However, Fig. 2, which is longitudinal section of the toothbrush body of the toothbrush from Fig. 1, illustrates that the handle shell part 22 is integrally formed with the container 10. See also Fig. 3, which illustrates the handle shell part 22 and the container body 42.

As acknowledged during the personal interview, this rejection is overcome.

Withdrawal of the rejection is requested.

III. Rejection Under 35 U.S.C. §112, second paragraph

Claims 1-19 are rejected under 35 U.S.C. §112, second paragraph, because "can be" in claims 1, 15, and 16, and because "and/or" in claims 8, 9 and 12 are allegedly indefinite. This rejection is respectfully traversed.

Claims 1, 8, 9, 12, 15 and 16 are amended to obviate this rejection. Withdrawal of the rejection is respectfully requested.

IV. The Claims Define Patentable Subject Matter

Claims 1, 2, 5, 6, 8, 15, 16 and 19 are rejected under 35 U.S.C. §102(b) over U.S. Patent No. 3,593,725 (Ortega); claims 1, 5, 8, 15, 16 and 19 are rejected under 35 U.S.C. §103(a) over U.S. Patent No. 4,275,750 (Clark); claim 13 is rejected under 35 U.S.C. §103(a) over Clark; claim 3 is rejected under 35 U.S.C. §103(a) over U.S. Patent No. 3,381,818

(Cope); claims 7, 9 and 10 are rejected under 35 U.S.C. §103(a) over U.S. Patent No. 2,450,002 (Jackson); claims 11 and 17 are rejected under 35 U.S.C. §103(a) over Clark in view of U.S. Patent No. 5,382,106 (Voigt); claims 12 and 18 are rejected under 35 U.S.C. §103(a) over Clark in view of U.S. Patent No. 5,761,759 (Leversby); and claim 14 is rejected under 35 U.S.C. §103(a) over Clark in view of U.S. Patent No. 5,735,011 (Asher). These rejections are respectfully traversed.

Each of independent claims 1, 15 and 16 is amended to overcome the rejections.

In particular, as acknowledged by the Examiner during the personal interview, Ortega fails to disclose a toothpaste container with a container body integrally formed with a handle shell part, which projects beyond the container holder and together with the handle part forms an exterior surface of the handle, as recited in claim 1, and similarly recited in claim 16.

Instead, the cap according to Ortega is not integrally formed on the toothpaste container and does not provide the function of a handle shell part. The toothpaste container and the cap are two different elements (see Fig. 1, 2 and 9).

Furthermore, when using the Ortega toothbrush during normal teeth cleaning, the user will not contact the toothpaste container, whereas according to the claimed toothbrush container of claims 1, 15 and 16, the user inevitably contacts the toothpaste container. The concept, the requirements and the configuration of the toothpaste containers, of the presently claimed invention and that of Ortega are entirely different. For example, in the toothbrush according to claim 15, the handle shell part of the toothpaste container essentially maintains its form when subject to loading which occurs during teeth cleaning and at least part of the container body is thin-walled and more flexibly elastic than the rest of the container body such that the toothpaste can be squeezed out. In contrast, the toothbrush according to Ortega has neither a toothpaste container provided with a handle shell part nor two zones of different flexibility.

Furthermore, Clark discloses a toothbrush that is provided with a hollow handle such that the toothpaste container can be located inside the handle. The toothbrush container itself is entirely housed within the handle. As shown in Fig. 7 of Clark, one end side the toothbrush container 22 is equipped with an additional cap 16 in order to close the toothpaste container and the hollow handle. Furthermore, the toothbrush container according to Clark, during normal teeth cleaning, is neither visible nor subjected to loading. The toothpaste container according to Clark is (similar to Ortega) not provided with an integrally formed handle shell part.

Furthermore, the toothpaste container according to Clark (similar to Ortega) is not provided with an integrally formed handle shell part, and fails to disclose the container body together with the handle shell part to form a chamber for holding the toothpaste. As acknowledged by the Examiner during the personal interview, Clark fails to teach or suggest that the container body together with the handle shell part form a chamber for holding the toothpaste, as recited in claims 1 and 16.

Thus, Ortega and Clark each fail to teach the combination of features of each of claims 1, 15 and 16.

Furthermore, Cope, Jackson, Voigt, Leversby and Asher, in any combination, fail to cure the deficiencies of Ortega and Clark discussed above.

Cope discloses a toothpaste container, which has a laminated film body. Cope does not describe a toothpaste container according to the presently claimed invention. In fact, Cope does not describe a toothbrush at all. The disclosure regarding the resiliency of the toothpaste container does not suggest the features of the toothpaste container as presently claimed. Indeed, Cope mentions that the plastic material of the toothpaste container gives the ability to spring back to its original shape after a portion of the product has been squeezed out. However, the toothpaste container according to the presently claimed invention

comprises a handle shell part together with a thin-walled part, which is more flexibly elastic such that the toothpaste can be squeezed out. Cope neither teaches nor suggests such a toothpaste container.

Jackson discloses a pocket toothbrush whose handle houses a toothpaste cartridge within a hollow part of the handle (similar to Ortega and Clark). The hollow part of the handle with the toothpaste cartridge inside is closed by a cap. The toothpaste cartridge is neither visible nor subject to loading during teeth cleaning.

Similar to the toothbrush according to Jackson, Clark and Ortega, the toothbrush according to Voigt is provided with a hollow part inside the handle of the toothbrush, which houses a flexible toothpaste container. The hollow part inside the handle is also closed by a cap such that the toothpaste container is neither visible nor subject to loading during teeth cleaning.

Leversby is relied upon only for allegedly disclosing non-slip, flexibly elastic ribs 11, and Asher is relied upon only for allegedly disclosing a restraining element 20. Even if Leversby and Asher disclose these features, the presently claimed invention still would not be achieved because neither Leversby nor Asher teach or suggest a toothbrush with a handle part, which is configured to accommodate a toothpaste container, as presently claimed.

For the foregoing reasons, Clark, Cope, Jackson, Voigt, Leversby and Asher, in any combination, fail to cure the deficiencies of Ortega discussed above. Accordingly, the applied references, in any combination, fail to anticipate or render obvious the subject matter of claims 1, 15 and 16, as well as the claims depending therefrom.

Withdrawal of the rejections is respectfully requested.

V. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of the pending claims are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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Date: December 26, 2006

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